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January 23, 2002

Via ECFS

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

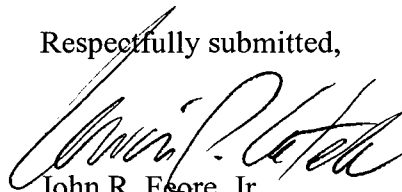
Re: NAB/ALTV Emergency Petition
CS Docket No. 00-96

Dear Madam Secretary:

On behalf of Jovon Broadcasting Corporation, licensee of Television Station WJYS(TV), Hammond, Indiana, we hereby submit electronically the enclosed Comments on the Emergency Petition filed on January 4, 2002, by the National Association of Broadcasters and the Association of Local Television Stations in CS Docket No. 00-96.

If we can provide the Commission with any further information about the material addressed in these Comments, please contact us directly.

Respectfully submitted,



John R. Feore, Jr.
Kevin P. Latek

Enclosure

cc w/ encl. via e-mail: Ms. Eloise Gore (FCC)
Mr. Ben Bartolome (FCC)
Qualex International



JOSEPH A. STROUD
PRESIDENT

January 21, 2002

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: NAB/ALTV Emergency Petition
CS Docket No. 00-96

Dear Madam Secretary:

Jovon Broadcasting Corporation ("Jovon") urges the Commission to grant the Emergency Petition filed on January 4, 2002, by the National Association of Broadcasters and the Association of Local Television Stations. The Emergency Petition seeks clarification or modification of the Commission's Rules to prohibit a direct broadcast satellite operator from requiring the installation of additional equipment to receive selected local television stations.

Placing "disfavored" local stations on a satellite that cannot be seamlessly received by subscribers of the "favored" local stations (the "Second-Dish Requirement") constitutes blatant discrimination against the "disfavored" local stations. As aptly demonstrated by the Emergency Petition, such discrimination violates both the letter and spirit of the Satellite Home Viewer Improvement Act of 1999 ("SHVIA") and the Commission's Rules.

As the Commission itself recognized by setting an expedited pleading cycle, the Emergency Petition has raised a serious issue that demands immediate resolution. To facilitate a prompt resolution, we will not restate the indisputable legal conclusions set forth in the Emergency Petition. Rather, we wish to notify the Commission of how the Second-Dish Requirement, currently employed by EchoStar, has disadvantaged Chicago area television viewers and therefore has harmed the public interest.

Jovon is the owner and FCC licensee of UHF Television Station WJYS(TV), Hammond, Indiana, which serves the Chicago DMA. Despite the sweeping consolidation in the media industries, WJYS(TV) remains one of the last independent, minority-owned television stations in a Top 10 market.

The station broadcasts a unique mix of programming for more than 7 million Chicago area television viewers, programming that is not available from any other source. For example,

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the station serves as an important outlet for Chicago area religious and political leaders. In total, the station broadcasts approximately 67 hours of religious programming per week, including ten hours during prime-time.

WJYS(TV) also airs a number of educational and informational programs directed at children. This programming includes "Get Real," a magazine show about children developed by Wisconsin Public Television and the Wisconsin Broadcasters Association, and "So You Want to Be," an upbeat, interactive series exploring career possibilities for young people. Unlike many stations, WJYS(TV) broadcasts its educational children's programming during the 3:00 to 4:00 time slot, when many children are just arriving home from school.

As DBS operators have rapidly increased their base of subscribers in the Chicago DMA, it has become an economic imperative that WJYS(TV) obtain carriage on the satellite platforms. DirecTV and EchoStar currently have over 200,000 subscribers in the Chicago market. Without access to a sizeable portion of its market, WJYS(TV) may not be able to attract a sufficient number of viewers to support its unique and (as the FCC has repeatedly recognized) valuable programming.

To this end, WJYS(TV) validly elected must-carry in June 2001 on DirecTV's and EchoStar's systems. DirecTV quickly confirmed that the station provided a good quality signal and would be carried on January 1, 2001. In contrast, EchoStar balked at our election by raising multiple but baseless objections, such as the station's failure to deliver a signal of an acceptable strength and quality to a local receive site that is located well within WJYS(TV)'s city grade contour. Following an exchange of correspondence with our communications counsel, EchoStar finally withdrew its objections and agreed to carry the station's signal beginning on January 1, 2002.

EchoStar, however, is not carrying WJYS(TV)'s signal in a manner consistent with SHVIA, the Commission's requirements, or the public interest. First, WJYS(TV) does not appear in the on-screen electronic programming guide that depicts the local affiliates of the major networks. As a result, there is simply no way that EchoStar's local-into-local subscribers in the Chicago market would know about the programming offered by WJYS(TV).

Second, if a subscriber learned about and wanted to watch a program on WJYS(TV), and that subscriber typed in the station's channel number (8503) on the remote, he or she would not be able to view the desired programming. Rather, the television would display a message indicating that the channel selection is not available. To access WJYS(TV)'s signal, the subscriber would need to undertake all of the following tasks:

1. Call EchoStar;
2. Wait for and perhaps seek out a customer service representative that understood the problem;
3. Learn about EchoStar's Second-Dish Requirement;

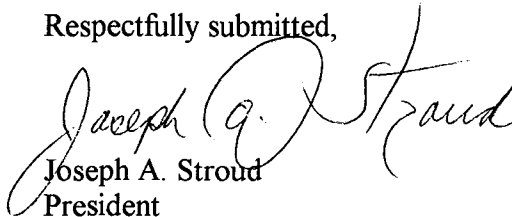
4. Decide whether installation of a second receiving dish was desirable and permissible;
5. Attempt to obtain permission from the landlord, building manager, condominium association, or homeowner's association for the installation of the second dish and associated cables, especially if the existing equipment is located in a common area;
6. Schedule an appointment for the installation of a second receiving dish and the replacement of all existing receivers;
7. Take time off of work to wait for the installers to install and test the new equipment; and
8. Pay the installer for secondary receivers and (presumably) the difference in price necessary to secure replacement of upgraded receivers.

It is highly unlikely that DBS subscribers, even if they learn about the Second-Dish Requirement, will choose to or be able to follow through all of these steps. From a practical standpoint, then, the Second-Dish Requirement costs "disfavored" stations the practical ability to reach a sizable percentage of their local viewing audience. Similar lessons were learned when cable and satellite subscribers were forced to use A/B switches to obtain off-air broadcast signals. Congress intervened in those cases by granting compulsory copyrights for cable and satellite operators – the latter at the strong urging of EchoStar.

The Second-Dish Requirement mocks the tireless efforts of Congress and the Commission to ensure the viability of all broadcast stations, including those broadcasting less popular programming. In short, the Second-Dish Requirement is contrary to the public interest.

Jovon Broadcasting Corporation respectfully requests that the Commission grant the Emergency Petition and confirm the obvious fact that EchoStar's conduct violates SHVIA and the Commission's rules.

Respectfully submitted,


Joseph A. Stroud
President